

EDWARD H. KUBO, JR. #2499
United States Attorney
District of Hawaii

RONALD G. JOHNSON #4532
Chief, Major Crimes Section

WES REBER PORTER #7698
Assistant U.S. Attorney
Room 6-100, PJKK Federal Bldg.
300 Ala Moana Boulevard
Honolulu, HI 96850
telephone: 541-2850
facsimile: 541-2958
e-mail: wes.porter@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

SEP 14 2005

at 10 o'clock and 10 min. M
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. C R 05 - 00372 JMS
)	
Plaintiff,)	INDICTMENT
)	
vs.)	[18 U.S.C. §§ 1028A, 1344 &
)	1349]
CATHLEEN A. FREITAS, (01))	
MARION FREITAS, (02))	
a.k.a. "Marion Jardine,")	
)	
Defendants.)	
)	

I N D I C T M E N T

COUNT 1

(conspiracy to commit bank fraud)

The Grand Jury charges that:

At all times material to this indictment, Bank of Hawaii was a financial institution as defined in Section 20(6), Title 18, United States Code, with deposits insured by the Federal Deposit Insurance Corporation ("FDIC").

1. From December 2004 and continuing thereafter until January 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," knowingly and willfully did combine, conspire, confederate, and agree together with each other, and with other persons both known and unknown to the grand jury, to commit offenses against the United States, that is, violations of Section 1344 of Title 18, United States Code (bank fraud).

MANNER AND MEANS OF THE CONSPIRACY

2. It was a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, would steal personal checks from the United States mail without authority from the lawful owners/drafters of the checks, in violation of Title 18, United States Code, Section 1708. The defendants then altered the stolen checks by forging and changing the "payee" to a person of their choosing.

3. It was further a part and an object of the conspiracy that the defendants, and others known and unknown to the grand jury, would steal an access device to a Bank of Hawaii checking account ("BOH account") from the United States mail without authority from the true owner/holder of the account, in violation of Title 18, United States Code, Section 1708.

4. It was further a part and an object of the conspiracy that the defendants, and others known and unknown to

the grand jury, knowingly used, in and affecting interstate commerce, without lawful authority, one or more means of identification of another person with the intent to commit, and to aid or abet, unlawful activity that constitutes the felonies of conspiracy to commit bank fraud and bank fraud, in violation of Title 18, United States Code, Section 1028A.

5. It was further a part of the conspiracy that the defendants, and others known and unknown to the grand jury, would deposit the stolen and altered checks into the BOH account by forging and altering the true owner of the BOH account as the payee on the stolen checks.

6. It was further a part of the conspiracy that the defendants, and others known and unknown to the grand jury, would withdraw moneys from the BOH account using a stolen access device, that is, an Automated Teller Machine ("ATM") card and Personal Identification Number ("PIN"), without the authority of the true owner of the BOH account, with an intent to defraud and by such conduct obtained items of value aggregating \$1,000 or more during a one-year period, in violation of Title 18, United States Code, Sections 1029(a)(2).

OVERT ACTS

7. In furtherance of the conspiracy and to effect the objects of the conspiracy, as set forth in paragraphs 1-6 of this Indictment, the following overt acts, among others, were committed in the District of Hawaii:

a. Between December 2004 and January 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," and others known and unknown to the grand jury, did steal from the United States mail an access device, to wit: an Automated Teller Machine ("ATM") card and Personal Identification ("PIN") Number, to a Bank of Hawaii checking account, bearing Account Number 0003-782999 and belonging to B.S. ("BOH account").

b. Between on or about January 3, 2005 and on or about January 6, 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," and others known and unknown to the grand jury, did steal from the United States mail a personal check, Check Number 3334 drawn from a First Hawaiian Bank account, belonging to M.B., made payable to Countywide Bank in the amount of \$1,899, and then, without authority from M.B., altered and forged the payee to reflect B.S., the true owner of the BOH account.

c. On or about January 6, 2005, in the District of Hawaii, defendant CATHLEEN A. FREITAS did use a means of

identification of B.S., that is, his name, and deposit the stolen and altered check, Check Number 3334, into the BOH account.

d. Between on or about January 5, 2005 and on or about January 7, 2005, in the District of Hawaii, defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," and others known and unknown to the grand jury, did steal from the United States mail a personal check, Check Number 1859 drawn from another Bank of Hawaii account, belonging to M.B.D.M. and made payable to Oceanic Cable in the amount of \$47.70, and then, without authority from M.B.D.M., altered and forged the payee to reflect B.S., the true owner of the BOH account, and then altered the amount to \$4,700.

e. On or about January 6, 2005, in the District of Hawaii, defendant MARION FREITAS, a.k.a. "Marion Jardine," did use a means of identification of M.B.D.M., that is, his name, and deposit the altered check, Check Number 1859, into the BOH account.

f. Between on or about January 5, 2005 and on or about January 14, 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," did steal a personal check, Check Number 5225 drawn from another Bank of Hawaii account, belonging to T.W. and made payable to Macy's in the amount of \$127.67, and then, without authority from T.W., altered and forged the payee to

reflect B.S., the true owner of the BOH account and then altered the amount to \$727.

g. On or about January 11, 2005, in the District of Hawaii, defendant MARION FREITAS, a.k.a. "Marion Jardine," did use a means of identification of T.W, that is, her name, and deposit the stolen and altered check, Check Number 5225, into the BOH account.

h. Between on or about January 5, 2005 and on or about January 14, 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," and others known and unknown to the grand jury, did steal a personal check, Check Number 1443 drawn from a First Hawaiian Bank account, belonging to S.R.I. and made payable to BMW Financial in the amount of \$650, and then, without authority from S.R.I., altered and forged the payee to reflect B.S., the true owner of the BOH account.

i. On or about January 14, 2005, in the District of Hawaii, defendant MARION FREITAS, a.k.a. "Marion Jardine," did use a means of identification of S.R.I., that is, her name, and deposit the stolen and altered check, Check Number 1443, into the BOH account.

j. Between on or about January 6, 2005 and on or about January 10, 2005, in the District of Hawaii, defendant CATHLEEN A. FREITAS did knowingly use, with an intent to defraud,

an unauthorized access device to make eighteen (18) ATM withdrawals from the BOH account and by such conduct obtained, in the aggregate, \$3,960 during that period.

k. Between on or about January 6, 2005 and on or about January 10, 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," and others known and unknown to the grand jury, did knowingly use, with an intent to defraud, an unauthorized access device to make another six (6) ATM withdrawals from the BOH account and by such conduct obtained, in the aggregate, \$1,024 during that period.

All in violation of Title 18, United States Code, Sections 1349.

COUNTS 2-23
(bank fraud)

The Grand Jury further charges that:

8. From December 2004 and continuing thereafter until January 2005, in the District of Hawaii, the defendants, CATHLEEN A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine," unlawfully and knowingly executed and attempted to execute a scheme and artifice to defraud the Bank of Hawaii, and to obtain moneys, funds, credits, assets, securities, and other property owned by and under the custody and control of the Bank of Hawaii by means of material false and fraudulent pretenses,

representations, and promises, as set forth in paragraph 1-7 of this Indictment.

CHECKS DEPOSITED - BOH

9. As part of the scheme and artifice, the defendants stole, altered, and, without the authority of the owner/drafter of the check, deposited the following personal checks, in the following amounts drawn from valid accounts from the following banks, into a Bank of Hawaii checking account, bearing Account Number 0003-782999 and belonging to B.S. ("BOH account"):

<u>COUNT</u>	<u>DATE</u>	<u>CHECK #</u>	<u>AMOUNT</u> (orig. amt)	<u>BANK</u>	<u>PAYEE</u> (orig. payee)
<u>Checks Deposited into BOH Account:</u> (Acct #:0003-782999)					
2	1/6/05	3334	\$1,899 (1,899)	FHB	B.S. (Countrywide Bank)
3	1/7/05	1859	\$4,700 (47.70)	BOH	B.S. (Oceanic Cable)
4	1/14/05	5225	\$727 (127.67)	BOH	B.S. (Macy's)
5	1/14/05	1443	\$650 (650)	FHB	B.S. (BMW Financial)

WITHDRAWALS - BOH

10. Between on or about January 6, 2005 and on or about January 10, 2005, in the District of Hawaii, defendant CATHLEEN A. FREITAS, as part of the scheme and artifice, the defendants using the stolen ATM card and PIN number for the BOH

account, and, without the authority of B.S., the lawful owner of the BOH account, did knowingly use, with an intent to defraud, an unauthorized access device, that is, the ATM card and PIN code, to make eighteen (18) ATM withdrawals from the BOH account and by such conduct obtained, in the aggregate, \$3,960 during that period, from the following ATM withdrawals:

<u>COUNT</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>BANK</u>	<u>Transaction Type</u>
<u>ATM Withdrawals from the BOH Account:</u> (Acct #:0003-782999)				
6	1/6/05	\$60	BOH	ATM
7	1/6/05	\$60	BOH	ATM
8	1/6/05	\$40	BOH	ATM
9	1/7/05	\$200	BOH	ATM
10	1/7/05	\$160	BOH	ATM
11	1/7/05	\$200	BOH	ATM
12	1/7/05	\$160	BOH	ATM
13	1/7/05	\$80	BOH	ATM
14	1/8/05	\$200	BOH	ATM
15	1/8/05	\$200	BOH	ATM
16	1/8/05	\$200	BOH	ATM
17	1/9/05	\$200	BOH	ATM
18	1/9/05	\$200	BOH	ATM
19	1/9/05	\$200	BOH	ATM
20	1/9/05	\$200	BOH	ATM

21	1/10/05	\$200	BOH	ATM
22	1/10/05	\$200	BOH	ATM
23	1/10/05	\$200	BOH	ATM

All in violation of Title 18, United States Code,
Sections 1344 and 1349.

COUNT 24

(aggravated identity theft)

The Grand Jury further charges that:

From December 2004 and continuing thereafter until
January 2005, in the District of Hawaii, the defendants, CATHLEEN
A. FREITAS (01) and MARION FREITAS (02), a.k.a. "Marion Jardine,"
did knowingly use, in and affecting interstate commerce, without
lawful authority, one or more means of identification of another
person, to wit, the name and electronic identification number of
B.S., during and in relation to a felony as set out in Title 18,

//

//

//

//

//

//

//

//

United States Code, Section 1028A(c)(5), to wit: conspiracy to commit bank fraud, as charged in Count 1 and bank fraud, as charged in Counts 2-23 respectively.


All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

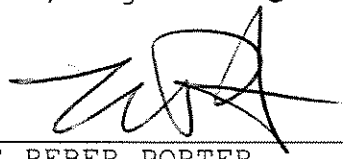
DATED: September 14, 2005, at Honolulu, Hawaii.

A TRUE BILL.

151
FOREPERSON, Grand Jury

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii


RONALD G. JOHNSON
Chief, Major Crimes Section


WES REBER PORTER
Assistant U.S. Attorney